

Ordinance No. 18228-08-2008

AN ORDINANCE INCREASING APPROPRIATIONS IN THE RISK MANAGEMENT FUND IN THE AMOUNT OF \$32,000.00 AND DECREASING THE UNRESERVED, UNDESIGNATED FUND BALANCE BY THE SAME AMOUNT, FOR THE PURPOSE OF FUNDING THE SETTLEMENT OF THE LAWSUIT ENTITLED MUHAMMAD RAFIQUE V. CITY OF FORT WORTH, CIVIL ACTION NO. 4:06-CV-00645-Y; PROVIDING FOR A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

That in addition to those amounts allocated to the various City departments for Fiscal Year 2007-2008 in the Budget of the City Manager, there shall also be increased appropriations in the Risk Management Fund in the amount of \$32,000.00 and decreasing the unreserved, undesignated fund balance by the same amount, for the purpose of funding the settlement of lawsuit entitled Muhammad Rafique v. City of Fort Worth, Civil Action No. 4:06-CV-00645-Y.

SECTION 2.

That should any portion, section or part of a section of this ordinance be declared invalid, inoperative or void for any reason by a court of competent jurisdiction, such decision, opinion or judgment shall in no way impair the remaining portions, sections, or parts of sections of this ordinance, which said remaining provisions shall be and remain in full force and effect.

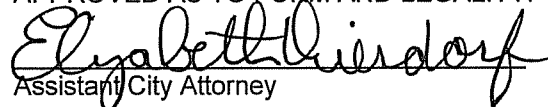
SECTION 3.

That this ordinance shall be cumulative of Ordinance No. 17749 and all other ordinances and appropriations amending the same except in those instances where the provisions of this ordinance are in direct conflict with such other ordinances and appropriations, in which instance said conflicting provisions of said prior ordinances and appropriations are hereby expressly repealed.

SECTION 4.

This ordinance shall take effect upon adoption.

APPROVED AS TO FORM AND LEGALITY:


Assistant City Attorney

ADOPTED AND EFFECTIVE: August 26, 2008

City of Fort Worth, Texas

Mayor and Council Communication

COUNCIL ACTION: Approved on 8/26/2008 - Ord. No. 18228-08-2008

DATE: Tuesday, August 26, 2008

LOG NAME: 12RAFIQUESTLMT

REFERENCE NO.: **G-16248

SUBJECT:

Approve Settlement of Lawsuit Entitled Muhammad Rafique v. City of Fort Worth, Civil Action No. 4:06-CV-00645-Y and Adopt Appropriation Ordinance

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached supplemental appropriation ordinance increasing appropriations in the Risk Management Fund by \$32,000.00 and decreasing the unreserved, undesignated fund balance by the same amount; and
2. Authorize the payment of \$32,000.00 to Muhammad Rafique with the check made payable to Muhammad Rafique and Michael Linz for the settlement of the lawsuit Muhammad Rafique v. City of Fort Worth, Civil Action No. 4:06-CV-00645-Y.

DISCUSSION:

Muhammad Rafique is a former environmental specialist in the Environmental Management Department for the City of Fort Worth. He alleges that the City discriminated against him under federal discrimination laws because of his religion and national origin, Pakistani Muslim. His employment was terminated because he failed to carry out a mobile collection unit event at the City of Westworth Village City Hall on May 21, 2005. He failed to locate the proper location of the event, and, instead, collected waste on private property at a convenience store parking lot, while household waste was left on the ground at Westworth Village City Hall.

Mr. Rafique filed a lawsuit against the City in federal court on September 9, 2006, Civil Action No. 4:06-CV-00645-Y under the Civil Rights Act of 1964, 42 U.S.C. §§ 20003-5 et seq. ("Title VII"), and deprivation of federal statutory and constitutional rights under 29 U.S.C. § 1983 ("Section 1983"), and complained that he was fired because of his religion and national origin, Pakistani Muslim. He also alleged that he was subjected to discrimination in various ways during his employment with the City, including being required to shave his beard, and being denied time off for prayers. Mr. Rafique also sued his former supervisor Rex Johnson, but Mr. Johnson was dismissed from the lawsuit with prejudice before this settlement was reached. The City expressly denies all of Mr. Rafique's allegations and further asserts that all of its decisions regarding Mr. Rafique were motivated by legitimate business reasons.

Mr. Rafique and the City desire to compromise, settle, and discharge Mr. Rafique's claims asserted in the lawsuit and the things complained of therein and in any way arising out of his employment with the City, in order to avoid the expense and uncertainty of litigation and to buy their peace.

The City and Mr. Rafique have reached an agreement for the purpose of settling the claim that arose out of his claims that the City terminated him from his position unlawfully.

While the City denies liability in this lawsuit, the City and Mr. Rafique have reached a compromised settlement, subject to City Council approval, in which the City will pay \$32,000.00 to Mr. Rafique. He will receive a check made payable to him and his attorney, Michael Linz, to settle the lawsuit and all claims against the City. In return for this payment, Mr. Rafique has agreed to dismiss his claims with prejudice. Additionally, he has agreed not to seek employment with the City in the future.

Approval of this settlement should not be construed as an admission of liability by the City or its officers, agents, and employees. In fact, any such liability in this matter is specifically denied. This settlement is entered into only to avoid further time-consuming and costly litigation.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that upon approval of the above recommendations and adoption of the attached supplemental appropriation ordinance, funds will be available in the current operating budget, as appropriated, of the Risk Management Fund. Upon approval, the unaudited, unreserved, undesignated fund balance of the Risk Management Fund will be \$7,896,464.00, which is the amount available above the minimum reserve fund balance of \$1,368,049.00 required by the City's Financial Management Policy Statements (i.e., 25 percent of the current-year adopted budget expenditures.)

TO Fund/Account/Centers

FROM Fund/Account/Centers

FE71 534050 0137120

\$32,000.00

Submitted for City Manager's Office by:

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Originating Department Head:

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Additional Information Contact:

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